

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

MOUNTAIN EXPRESS OIL COMPANY, et al.,  
  
Debtors.<sup>1</sup>

Chapter 11

Case No. 23-90147 (DRJ)

(Joint Administration Requested)

**EMERGENCY EX PARTE APPLICATION FOR ENTRY OF AN ORDER  
AUTHORIZING THE EMPLOYMENT AND RETENTION OF KURTZMAN CARSON  
CONSULTANTS LLC AS CLAIMS, NOTICING, AND SOLICITATION AGENT**

**Emergency relief has been requested. Relief is requested not later than March 22, 2023.**

**If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**

**A hearing will be conducted on this matter on March 22, 2023, at 3:30 p.m. (prevailing Central Time). Participation at the hearing will only be permitted by an audio and video connection.**

**Audio communication will be by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Jones's conference room number is 205691. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Jones's homepage. The meeting code is "JudgeJones". Click the settings icon in the upper right corner and enter your name under the personal information setting.**

**Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on JudgeJones's homepage. Select the case name, complete the required fields and click "Submit" to complete your appearance.**

<sup>1</sup> A complete list of each of the Debtors in these Chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at [www.kccllc.net/mountainexpressoil](http://www.kccllc.net/mountainexpressoil). The location of Debtor Mountain Express Oil Company's principal place of business and the Debtors' service address in these Chapter 11 cases is 3650 Mansell Road, Suite 250, Alpharetta, GA 30022.

The Debtors file this emergency *ex parte* application to employ a claims, noticing, and solicitation agent (the “Application”):<sup>1</sup>

### **Relief Requested**

1. The Debtors seek entry of an order authorizing the Debtors to employ Kurtzman Carson Consultants LLC (“Agent”) as claims, noticing, and solicitation agent (in such capacity, the “Claims and Noticing Agent”) in accordance with the terms and conditions set forth in the engagement letter, dated March 13, 2023 (the “Engagement Letter”), attached as **Exhibit A**. The Application is supported by the *Declaration of Evan Gershbein in Support of Debtors’ Emergency Ex Parte Application for Entry of an Order Authorizing the Employment and Retention of Kurtzman Carson Consultants LLC as Claims, Noticing, and Solicitation Agent* attached as **Exhibit B** (the “Gershbein Declaration”).

2. Emergency consideration of this Application is requested to effectuate the Debtors’ transition into bankruptcy and to immediately begin providing effective notice of pleadings and orders to interested parties.

### **Jurisdiction and Venue**

3. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this Application pursuant to 28 U.S.C. § 1334.

4. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

5. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

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<sup>1</sup> Capitalized terms used but not immediately defined have the meanings given to them elsewhere in this Application or in the First Day Declaration, as applicable.

**Request to Employ Agent**

6. The Debtors request approval to employ Agent to serve as Claims and Noticing Agent in their Chapter 11 Cases to provide the services outlined in the Engagement Letter. The Debtors believe that Agent's employment is in the best interest of the estates.

7. The Agent's rates are competitive and reasonable. The Agent has the expertise required in a complex chapter 11 case.

8. The Debtors request this Court authorize Agent's employment.

**Compensation**

9. The Debtors request that Agent's fees and expenses be paid as an administrative expense in the ordinary course of the Debtors' businesses without further application or order of the Court. Should a dispute develop, the matter will be brought to the Court for resolution. Agent agrees to maintain records of all services showing dates, categories of services, fees charged, and expenses incurred.

10. Agent will provide a monthly invoice to the Debtors, Debtors' counsel, the U.S. Trustee, counsel for any official committee, and any party in interest who specifically requests service of the monthly invoices.

11. Prior to the Petition Date, the Debtors provided Agent an advance in the amount of \$50,000.00. Agent will apply these funds in accordance with the Engagement Letter.

**Indemnification**

12. The Debtors have agreed to indemnify the Agent as set forth in the Engagement Letter. Notwithstanding anything to the contrary, Agent will not be indemnified for liability arising out of gross negligence, willful misconduct, and certain other matters identified in the proposed order.

**Disinterestedness**

13. Agent has reviewed its conflicts system to determine whether it has any relationships with the Debtors' creditors and parties in interest. Except as disclosed in the Gershbein Declaration, Agent represents that it neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it would be employed. To the best of the Debtors' knowledge, Agent is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code. Agent agrees that it will supplement its disclosure to the Court if any facts or circumstances are discovered that would require such additional disclosure.

14. The Debtors request that the Court grant the relief requested in this Application.

Dated: March 18, 2023

**MOUNTAIN EXPRESS OIL COMPANY, et al.**

By: /s/ Michael Healy

Michael Healy, Chief Restructuring Officer,  
solely in his capacity as Chief Restructuring  
Officer and not in any individual capacity

**Certificate of Service**

This Application is being filed *ex parte*. Service will only occur by notice on the Court's CM/ECF system.

/s/ Michael D. Warner  
Michael D. Warner